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Attorney(s) for Rothschild Broadcast Distribution Systems, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**ROTHSCHILD BROADCAST
DISTRIBUTION SYSTEMS, LLC,**

Plaintiff,

v.

ELLATION, LLC,

Defendant.

Case No. 3:21-cv-06698

PATENT CASE

COMPLAINT

Plaintiff Rothschild Broadcast Distribution Systems, LLC (“Plaintiff” or “Rothschild Broadcast Distribution Systems”) files this complaint against Ellation, LLC (“Ellation”) for infringement of U.S. Patent No. 8,856,221 (hereinafter the “’221 Patent”) and alleges as follows:

PARTIES

1. Plaintiff is a Texas limited liability company with an office at 1 East Broward Boulevard, Suite 700, Ft. Lauderdale, FL 33301.

2. On information and belief, Defendant is a Delaware limited liability company, with a place of business at 444 Bush St, San Francisco, CA 94108. On information and belief, Defendant may be served through its agent, CT Corporation System, 330 N Brand Blvd., Glendale, CA 91203.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. § 271 et seq. Plaintiff is seeking damages, as well as attorney fees and costs.

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents).

5. On information and belief, this Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. Upon information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in the District.

7. Venue is proper in this District under 28 U.S.C. §1400(b) because Defendant is deemed to be a resident in this District. Alternatively, acts of infringement are occurring in this District and Defendant has a regular and established place of business in this District.

BACKGROUND

8. On October 7, 2014, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '221 Patent, entitled "System and Method for Storing Broadcast Content in a Cloud-Based Computing Environment" after the USPTO completed a full and fair examination. The '221 Patent is attached as Exhibit A.

9. Rothschild Broadcast Distribution Systems is currently the owner of the '221 Patent.

10. Rothschild Broadcast Distribution Systems possesses all rights of recovery under the '221 Patent, including the exclusive right to recover for past, present and future infringement.

3 COUNT ONE

12. Plaintiff refers to and incorporates the allegations in Paragraphs 1 - 11, the same as if set forth herein.

9 14. Defendant has knowledge of its infringement of the '221 Patent, at least
10 as of the service of the present complaint.

16. The present invention solves problems that existed with then-existing media delivery systems. One problem with prior delivery systems is that the customer was charged according to the expenses of the provider rather than the usage of the customer. '221 Patent, 1:31-57. Customers were not charged based on the amount of

1 programming delivered or the amount or duration of the customer's storage of media.
2 *Id.* Another such problem, more generally, is that customers were not billed and
3 services were not provided, in a way that was tailored to the customer's needs and
4 usage. *Id.*, 2:3-13.

5 17. A number of aspects of the invention(s) embodied in the '221 Patent
6 overcome the problems with the prior art. For example, the inventive system includes
7 a processor in communication with a receiver. *Id.*, 2:23-34. The processor determines
8 media content characteristics that correspond to the media content to be stored. *Id.* The
9 processor determines a length of time to store the media content based on the media
10 data and determines a cost amount based at least in part on the determined media
11 content characteristics and length of time to store the media content. *Id.* As another
12 example, the system makes a determination that media content is available for
13 download. *Id.*, 2:64-3:2. A determination is made that content is not stored. Download
14 of the media content is initiated. *Id.* The media content is received and the received
15 media content is stored. *Id.*

16 18. The '221 Patent is directed to computerized technologies to provide users
17 with tailored media delivery systems and tailored billing for such systems. Among other
18 things, the '221 Patent claims include sending and receiving of request messages
19 indicating requested media content and including a device identifier corresponding to
20 a consumer device. A determination is made whether the identifier corresponds to the
21 device. A determination is also made as to whether the request is for delivery or
22 storage. The media data in the request includes time data that indicates a length of time
23 for storage. A processor is configured to determine whether requested media exists and
24 whether there are any restrictions associated with delivery or storage of the requested
25 media.

26 19. The system(s) and methods of the '221 Patent include software and
27 hardware that do not operate in a conventional manner. For example, the software is
28 tailored to provide functionality to perform recited steps and the processor is configured

1 (and/or programmed) to provide functionality recited throughout the claims of the ‘221
2 Patent.

3 20. The ‘221 Patent solves problems with the art that are rooted in computer
4 technology and that are associated with electronic transmission, loading, and storage of
5 location information, as well as automatic provisioning of route guidance. The ‘221
6 Patent claims do not merely recite the performance of some business practice known
7 from the pre-Internet world along with the requirement to perform it on the Internet.

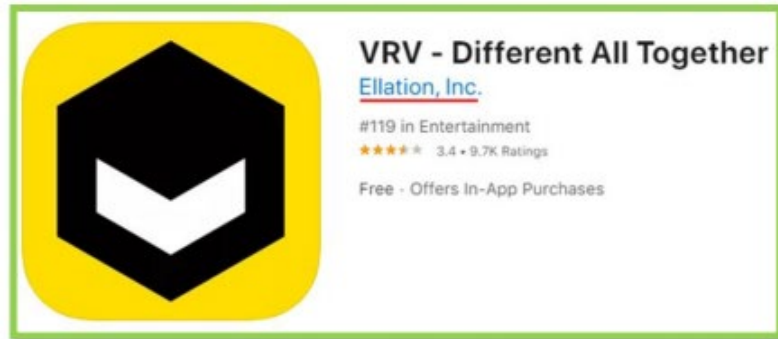
8 21. The improvements of the ‘221 Patent and the features recited in the claims
9 in the ‘221 Patent provide improvements to conventional hardware and software
10 systems and methods. The improvements render the claimed invention of the ‘221
11 Patent non-generic in view of conventional components.

12 22. The improvements of the ‘221 Patent and the features recitations in the
13 claims of the ‘221 Patent are not those that would be well-understood, routine or
14 conventional to one of ordinary skill in the art at the time of the invention.

15 23. Accordingly, Defendant has infringed, and continues to infringe, the ‘221
16 Patent in violation of 35 U.S.C. § 271. Upon information and belief, Defendant has
17 infringed and continues to infringe one or more claims, including at least Claim 7, of
18 the ‘221 Patent by making, using, importing, selling, and/or offering for media content
19 storage and delivery systems and services covered by one or more claims of the ‘221
20 Patent.

21 24. Defendant sells, offers to sell, and/or uses media content storage and
22 delivery systems and services, including, without limitation, the “VRV” media delivery
23 platform, any associated hardware, software and apps, as well as any similar products
24 (“Product”), which infringe at least Claim 7 of the ‘221 Patent.

25. The Product practices a method of storing (e.g., cloud storage) media content (e.g., conference recording) and delivering requested media content (streaming video, recorded videos, etc.) to a consumer device (e.g., mobile device with app or software). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.



Source: <https://apps.apple.com/us/app/vrv-anime-game-videos-more/id1165206979?ls=1>

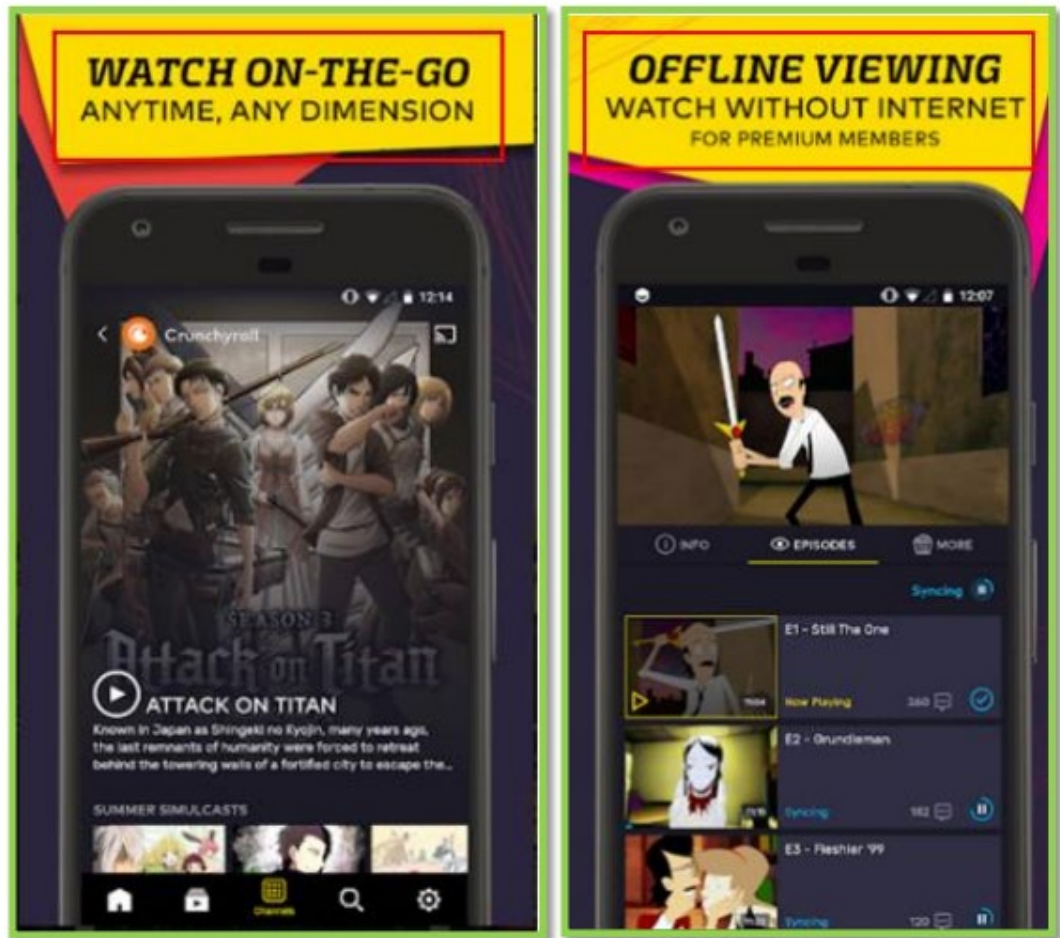
GET THE VRV APP

Don't let bad internet stop your binge. Introducing Offline Viewing on VRV, for Android and iOS. Start a free trial today, sync your favorite stuff, and watch it all offline.

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Source: <https://vrv.co/qopremium-offline-viewing>



Source: <https://play.google.com/store/apps/details?id=com.ellation.vrv>

26. The Product necessarily includes a receiver configured to receive a request message including data indicating requested media content (e.g., the Product must have infrastructure to receive a request to store recorded media content or to stream recorded media content on a smartphone; additionally, the request message must contain data that identifies the content to be stored or streamed) and a consumer device identifier corresponding to a consumer device (e.g., the user credentials are used to access the contents of the Product). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

1 VRV is available on iOS phones/iPads, Android devices versions 5.0 and above as well as
2 Android TV, Fire TV, Apple TV, XBOX One, PS4, Chromecast, newer Roku devices and on
3 the Web. Please make sure your browsers are up to date. Our current support extends
4 to the browser versions listed below:

5 Source: <https://help.vrv.co/hc/en-us/articles/218030643-What-platforms-can-I-watch-VRV-on->

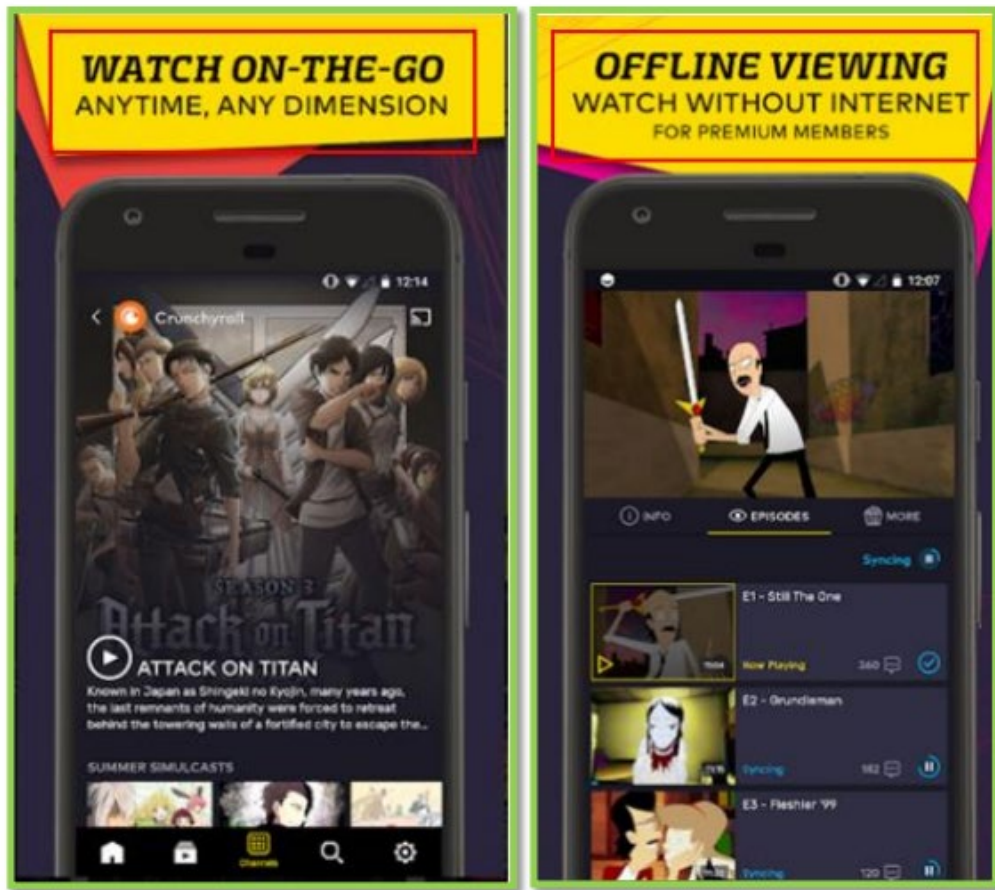
6 On mobile, you have a separate section in your watchlist for synced shows. This where you find
7 shows you've downloaded for offline viewing, a major extra feature for Crunchyroll, especially.
8 Downloads just may take a little while. As for simultaneous streams, VRV lets an unlimited
9 number of devices in a single house stream from the same account. A standalone Crunchyroll
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10 Source: <https://in.pcmag.com/first-looks/135673/vrv>

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Source: <https://vrv.co/gopremium-offline-viewing>

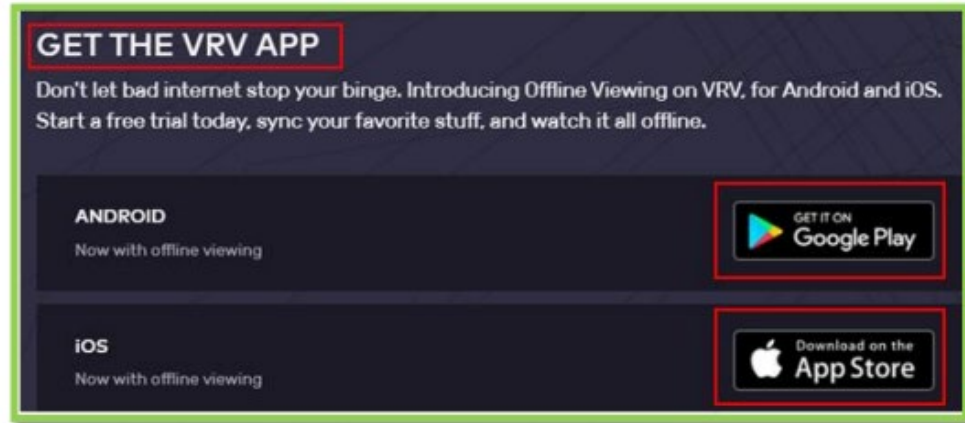
Watch when you want! Shows and movies are now available to Premium members for offline viewing through the VRV app on iOS and Android!

Sync episodes ahead of time so you can watch later, even in areas without an internet connection. With access to shows so convenient, you'll never be bored again! To get access to offline viewing, **sign up for VRV Premium** in order to sync shows on your VRV app.

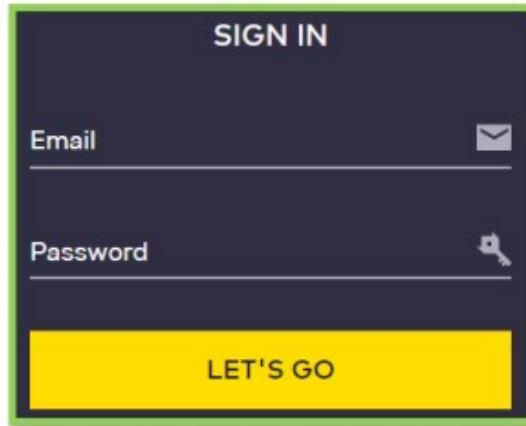
Source: <https://help.vrv.co/hc/en-us/articles/115005426086-Get-offline-viewing-with-the-VRV-app-on-iOS-and-Android->

Source: <https://vrv.co/signin?redirect=%2Fwatchlist>

27. The Product necessarily determines whether the consumer device identifier corresponds to the registered consumer device (e.g., a user must be a registered user to access the Product's services). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.




Source: <https://vrv.co/get-vrv>




Source: <https://vrv.co/signin?redirect=%2Fwatchlist>

28. The Product provides for both media downloads and/or storage, and media streaming. After a successful login, the Product necessarily determines whether the request received from a customer is a request for storage (e.g., recording or storing content) or content (e.g., streaming of media content). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

SIGN IN

Email 

Password 


LET'S GO

Source: <https://vrv.co/signin?redirect=%2Fwatchlist>


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ANDROID
Now with offline viewing

 GET IT ON
Google Play

iOS
Now with offline viewing

 Download on the
App Store

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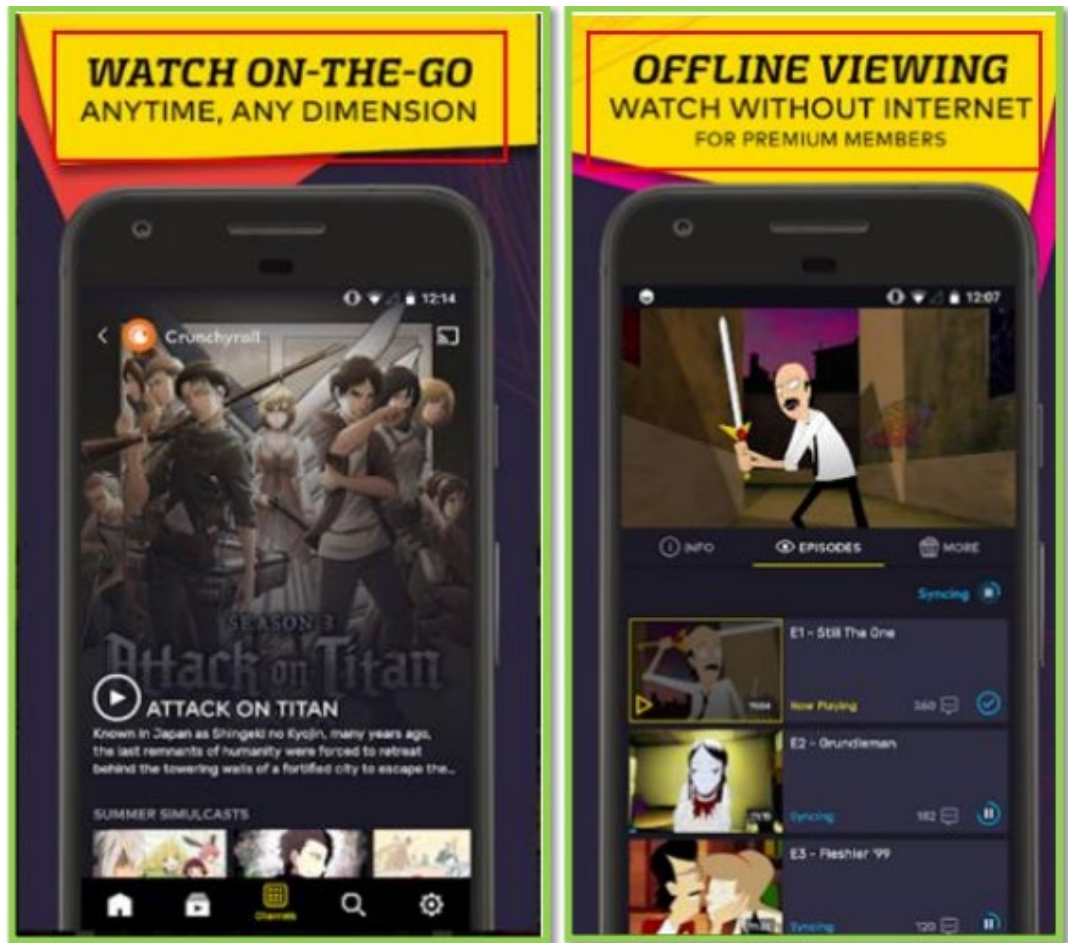
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29. The Product verifies that media content identified in the media data of the storage request message (e.g., request to record content) is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage. The Product must verify that the media content (e.g. specific recording) identified in the media data of the storage request message is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage (e.g., the product must verify a user's ability to store media content is limited to a certain amount of time). If any media content is streamed using a third party platform then it will be automatically stored in that particular platform. Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

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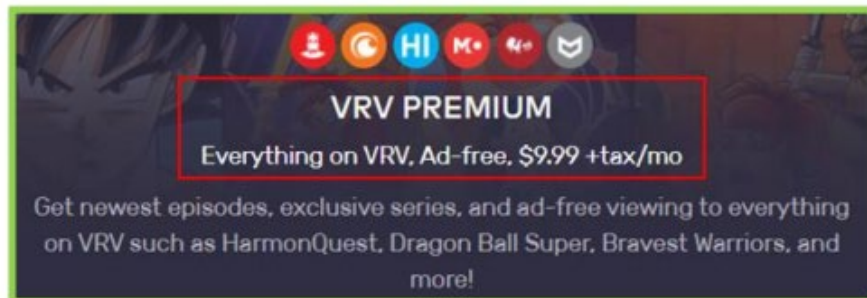
Source: <https://vrv.co/get-vrv>

Watch downloaded videos while offline

Premium user

- User opens app and sees a message that app is unable to connect and presented with option to see downloaded videos
- User goes to "downloaded" section of app
- User finds video to watch and presses play
- Video plays

Source: <https://ramonaziemann.medium.com/vrv-offline-viewing-an-ux-ui-design-case-study-5e2087f05eb7>



Source: <https://vrv.co/signin?subscribe=bundle-combopack>

While many members enjoy watching their favorite shows at home, we've often heard, that they also want to continue their episode or movie whether they are commuting, traveling or just in a place with pricey or spotty internet access. The offline viewing feature makes it possible for VRV members to watch things later without an internet connection. This feature should be available for iOS and Android apps.

Source: <https://ramonaziemann.medium.com/vrv-offline-viewing-an-ux-ui-design-case-study-5e2087f05eb7>

Through the VRV app, go to the episode you want to watch and tap the arrow icon to sync the content in your app. You can see all your synced content in your "offline viewing" list. Once synced, you will have a set amount of time (generally 7 days) to watch the content before it expires. After starting the episode or movie (by pressing the play button), you can watch it at your leisure over the next 48 hours before it will expire. If the show ever does expire before you are done, you can just renew it to watch it again. (Renewing requires internet connection.)

Source: <https://help.vrv.co/hc/en-us/articles/115005426086-Get-offline-viewing-with-the-VRV-app-on-iOS-and-Android->

30. If a customer requests content (e.g., live streaming of media content), then a processor within the Product necessarily initiates delivery of the content to the customer's device. The Product will initiate delivery of the requested media content to the consumer device (e.g., stream media content feed to a smartphone or tablet etc.) if the request message is a content request message (e.g., request for live streaming). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.

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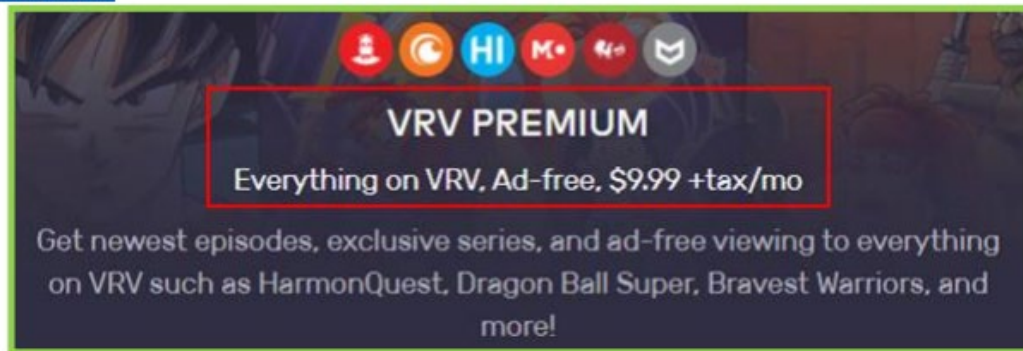
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31. The media data includes date and time information to identify conference start and stop times, as well as meeting length. Time data may also indicate a length of time to store the requested media content (e.g. a user is allowed to store media content for a retention period configured by the user per their subscription level). Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

Through the VRV app, go to the episode you want to watch and tap the arrow icon to sync the content in your app. You can see all your synced content in your "offline viewing" list. Once synced, you will have a set amount of time (generally 7 days) to watch the content before it expires. After starting the episode or movie (by pressing the play button), you can watch it at your leisure over the next 48 hours before it will expire. If the show ever does expire before you are done, you can just renew it to watch it again. (Renewing requires internet connection.)

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Source: <https://vrv.co/signin?subscribe=bundle-combopack>

32. The Product must first determine whether the requested media content exists prior to initiating delivery in order to prevent data errors that would result from attempting to transmit media content that does not exist (e.g., the product must verify that a particular requested data is stored in the cloud). Also, a user can view the history of media content and the processor can identify the existence of that particular media content. Certain aspects of these elements are illustrated in the screenshots below and/or in those provided in connection with other allegations herein.

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Source: <https://in.pcmag.com/first-looks/135673/vrv>

33. After the processor determines whether the requested media content is available, it determines whether there are restrictions associated with the requested media content (e.g., user access restrictions, etc.). Certain aspects of these elements are illustrated in the screenshots below and/or those provided in connection with other allegations herein.

Watch downloaded videos while offline

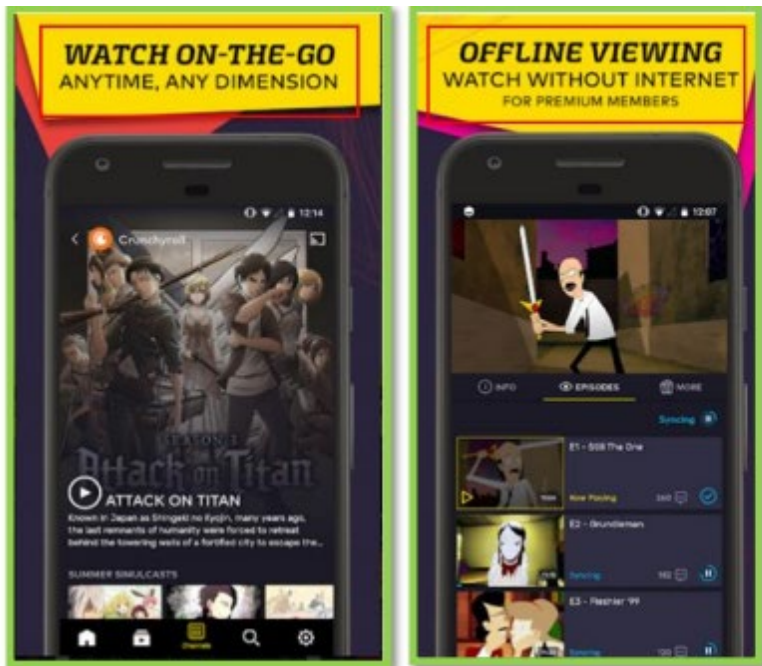
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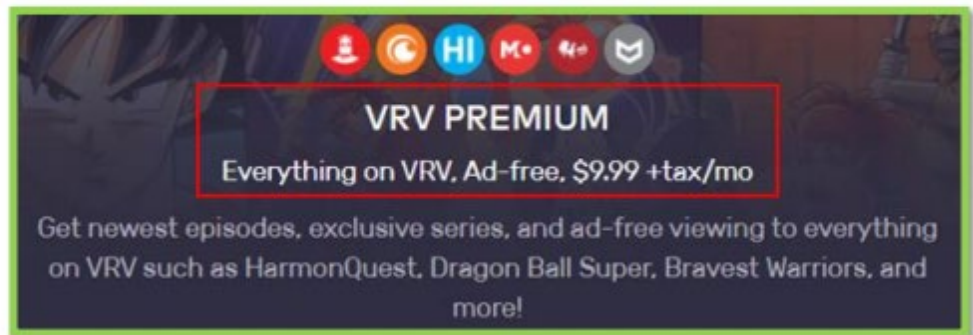
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Source: <https://play.google.com/store/apps/details?id=com.ellation.vrv>



Source: <https://vrv.co/signin?subscribe=bundle-combopack>

34. Defendant's actions complained of herein will continue unless Defendant is enjoined by this Court.

35. Defendant's actions complained of herein is causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

36. The '221 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

1 (c) Award Plaintiff damages resulting from Defendants infringement in
2 accordance with 35 U.S.C. § 284;

3 (d) Award Plaintiff such further relief to which the Court finds Plaintiff entitled
4 under law or equity.

5
6 Dated: August 30, 2021

Respectfully submitted,

7 /s/ Stephen M. Lobbin

8 Stephen M. Lobbin

9 sml@smlavvocati.com

SML AVVOCATI P.C.

10 888 Prospect Street, Suite 200

11 San Diego, California 92037

12 (949) 636-1391 (Phone)

13 ***Attorney(s) for Rothschild Broadcast***
14 ***Distribution Systems, LLC***